

# Calendar

## for Filing Nebraska Income Tax Withholding Forms

**MONTHLY – 15th.** [Nebraska Employer's Monthly Withholding Deposit, Form 501N](#), is due on the 15th day of the following month for those who withhold more than \$500 in either of the first two months of the quarter (not filed in January, April, July, or October).

**FEBRUARY 1.** The [Nebraska Reconciliation of Income Tax Withheld, Form W-3N](#), and state copies of the Federal Forms W-2, W-2G, 1099-R, and 1099-MISC provided to the employee or payee must be filed by this date.

**FEBRUARY 15.** The Federal Forms W-2, W-2G, 1099-R, and 1099-MISC reporting the amounts paid and taxes withheld in the preceding year must be delivered to the employee or payee.

**APRIL 30, JULY 31, AND OCTOBER 31.** The [Nebraska Quarterly Withholding Return, Form 941N](#), must be filed for the previous calendar quarter.

**JANUARY 31.** The Form 941N for the fourth calendar quarter must be filed. **Annual filers must file the Form 941N for the previous calendar year's withholding.**

## Reminders

**ONLINE FILING OF FORMS 941N AND W-3N IS NOW AVAILABLE.** This e-filing option is easy to use and is open to all filers. See [www.revenue.ne.gov](http://www.revenue.ne.gov) and click on "File Your Return" under "For Businesses."

**WHEN PAYING WAGES.** Employers paying employee wages for services performed in Nebraska subject to withholding must be licensed. They must withhold an amount from the wages paid for the Nebraska individual income tax. If the employee is working in more than one state, the employer may be required to withhold individual income taxes for more than one state for the same employee. Consult the [Nebraska Withholding Tax Regulations](#).

**WITHHOLDING ALLOWANCES** are the same number as the employee claims on his or her Federal Forms W-4 or W-4P. See the value of the [Nebraska allowances](#) listing on [page 8](#).

**ADDITIONAL STATE WITHHOLDING.** An employee may request additional state income tax to be withheld. The employee should give a written statement to the employer requesting the additional amount of withholding. Employers should inform employees how to request additional state withholding from their paychecks.

**FEDERAL CIRCULAR E REQUIRED.** The Nebraska guide does not include all of the information contained in the Federal Circular E, Employer's Tax Guide. A copy of that publication is available at [www.irs.gov](http://www.irs.gov).

**STATE INCOME TAX WITHHOLDING ON PENSIONS AND ANNUITIES.** The state income tax withholding provisions extend to certain pension and annuity payments made to Nebraska residents. See [page 8](#).

**INFORMATION RETURNS.** Only those forms that report wages or payments subject to withholding or amounts withheld for state tax must be furnished to the Department. Do not send informational reports for payments that are not subject to state withholding.

**NONRESIDENT WITHHOLDING.** Payments to nonresidents performing personal services in Nebraska may be subject to Nebraska withholding. This is the case whether or not the payments are subject to federal withholding. Read the section entitled "Withholding From Nonresidents" on [page 9](#).

**ELECTRONIC FUNDS TRANSFER (EFT).** Payments made by EFT eliminate the need for filing a [Nebraska Employer's Monthly Withholding Deposit, Form 501N](#).

**NEBRASKA ID NUMBER.** Employers are required to list their Nebraska ID number on each Federal Form W-2, W-2G, 1099-R, and 1099-MISC they issue.

# Circular EN Instructions

**PURPOSE.** The Circular EN explains your Nebraska tax responsibilities as an employer for withholding, reporting, and paying taxes. It explains the forms you must give your employees, those your employees must give you, and those you must send to the Nebraska Department of Revenue (Department).

This circular also has the tax tables to calculate the Nebraska taxes for withholding from each employee for wages paid on or after **January 1, 2013**.

**TAXPAYER ASSISTANCE.** Department taxpayer assistance offices are located in Lincoln and Omaha. Hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. You may call for taxpayer assistance, by dialing 800-742-7474 (from within Nebraska and Iowa), or 402-471-5729. Visit the [Department's website](#) for additional information.

**ARE YOU REQUIRED TO WITHHOLD?** If you have an office or conduct business in this state and are considered an employer for federal purposes, you must withhold income taxes for Nebraska. This includes payments made to all employees, including nonresidents, for services performed in this state.

If you pay a nonresident of Nebraska for personal services performed in this state, even when the person is not your employee, and the payment is not subject to federal withholding, you may still be required to withhold for Nebraska. See the instructions on [page 9, Withholding from Nonresidents](#) on payments not subject to federal withholding.

**WITHHOLDING CERTIFICATE.** You must complete a [Nebraska Tax Application, Form 20](#), to apply for a withholding certificate. There is no fee for this certificate.

**Multiple locations.** An employer with more than one location or accounting office may file deposits and returns for all locations, or for a region, separate location, or district.

**Taxable wages.** All amounts determined to be wages and subject to federal withholding are also wages for Nebraska purposes. They are subject to Nebraska withholding if wages were paid for services performed in this state.

**Cancelling the withholding certificate.** If you are no longer making payments subject to Nebraska withholding, the withholding certificate can be cancelled. This is done by checking the box below the name and location address on the Nebraska Quarterly Withholding Return, Form 941N. The withholding certificate can also be cancelled by filing a [Nebraska Change Request, Form 22](#).

**GAMBLING WINNINGS.** Certain gambling winnings that are also subject to federal withholding are subject to Nebraska withholding. See [page 8](#).

**PENSIONS AND ANNUITIES.** Pension and annuity payments with federal withholding may also have state tax withheld.

**AMOUNTS NOT SUBJECT TO STATE WITHHOLDING.** Backup withholding on interest and dividends is not required for Nebraska withholding purposes.

**PAYROLL PERIOD.** The payroll period for Nebraska purposes is the same period used for federal withholding.

**WITHHOLDING FROM EMPLOYEES.** Each employee is required by the IRS to file a Federal Form W-4, Employee's Withholding Allowance Certificate.

**The same marital status and number of withholding allowances claimed for federal purposes must be used for Nebraska.** The employer is not allowed to accept one Federal Form W-4 for federal withholding and a different one for Nebraska withholding.

An employee may request that an additional Nebraska withholding amount be withheld by the employer. The employee should check with the employer and may have to complete a written statement requesting the additional amount of state withholding.

**EXEMPT EMPLOYEES.** If employees claim exemption from federal withholding because they did not have a liability last year and expect none this year, they are also exempt from Nebraska withholding.

**CAUTION: This may be changed** by the special withholding requirement (see [page 2](#)). If the IRS requires withholding for an individual who has previously claimed exemption from withholding, that individual is also subject to Nebraska withholding.

**NONRESIDENT EMPLOYEES.** A [Nebraska Employee Certificate for Allocation of Withholding Tax, Form 9N](#), may be filed with the employer by any nonresident employee who is working for an employer in both Nebraska and other states. The form is used to designate the percentage of the wages subject to withholding for Nebraska purposes. A nonresident working 100% of the time in Nebraska will not complete a Form 9N.

The employer first calculates the withholding for a nonresident on the total wages paid using either the percentage method or the wage bracket method. After determining what the withholding is, the employer multiplies the withholding amount calculated by the percentage subject to withholding shown on the Form 9N. The result is the amount withheld for the nonresident.

The percentage on the [Form 9N](#) is only for the purpose of withholding for Nebraska an amount approximating the expected Nebraska liability. **The percentage used for withholding purposes does not determine the wage amount that must be included on the Form W-2 as Nebraska wages.**

**NONRESIDENTS PERFORMING PERSONAL SERVICES.** A nonresident who performs personal services within Nebraska and is not subject to federal withholding may still be subject to Nebraska withholding. There are special rates and methods for this withholding.

Withholding is required when a payor maintaining an office or transacting business in Nebraska makes payments to any nonresident individual, partnership, corporation, or LLC of more than \$600 for performing personal services. Withholding is also required when a private individual makes a payment or payments of more than \$5,000 to a nonresident performing personal services in Nebraska. See the instructions and rates on [page 9](#).

## **FILING AND PAYMENT REQUIREMENTS**

**QUARTERLY RETURN.** Every employer maintaining an office or transacting business in this state, and making payments to employees, is required to file the Nebraska Quarterly Withholding Return, Form 941N, unless licensed as an annual filer.

**Form 941N is filed whether or not there were payments made during the quarter that were subject to Nebraska withholding. The Form 941N is due on or before the last day of the month following the end of the quarter. The Form 941N may be e-filed using the Department's free Form 941N filing program. Quarterly and annual filers may also use this program.**

All employers who withhold \$500 or more during the first or second month of a quarter must file a monthly deposit. See the following.

**MONTHLY DEPOSITS.** The amount of taxes withheld determines the frequency of deposits. All employers are required to file returns and remit the tax each quarter.

No monthly deposit is required if, at month's end, the amount withheld during the month is less than \$500. The tax withheld can be paid with the quarterly return due the last day of the month following the end of the calendar quarter.

A monthly deposit is required if the employer has withheld **more than \$500** the first month of the quarter. A monthly deposit must be filed by the 15th day of the next month. A monthly deposit is then required to be made for the second month of the quarter, whether or not the amount withheld for the second month is more than \$500.

A deposit for the second month is required if the employer withholds **more than \$500** during the second month of the quarter. It must be filed by the 15th day of the following month and includes all taxes withheld for both the first and second months.

**MONTHLY DEPOSIT FILING.** Every employer required to deposit taxes monthly, or who has requested to file monthly, must file the [Nebraska Employer's Monthly Withholding Deposit, Form 501N](#). The form must be filed by the 15th day of the following month unless the payment is being made electronically. When making payments electronically, DO NOT file the Form 501N. The Form 501N is used only for taxes withheld during the first two months of the quarter. The taxes withheld for the third month of each quarter are paid when filing the [Nebraska Quarterly Withholding Return, Form 941N](#).

An employer who wants to begin receiving monthly Forms 501N from the Department must complete and file a [Nebraska Change Request, Form 22](#).

**ANNUAL FILERS.** Employers who have been licensed to file on an annual basis will file a single Form 941N for the entire calendar year. This return is due on or before January 31 of the following year. Quarterly returns will not be sent for the first three quarters of the year.

**ANNUAL RECONCILIATION OF INCOME TAX WITHHELD.** A [Nebraska Reconciliation of Income Tax Withheld, Form W-3N](#), is mailed at year-end to each licensed employer including annual filers. It is mailed separately from the fourth quarter Form 941N. The Form W-3N is due on or before February 1 of the following year. It is filed separately from Form 941N. The Form W-3N may be e-filed using the Department's free W-3N filing program.

**Nebraska copies of the following forms (for each employee or payee receiving wages or having tax withheld) are due February 1 after the close of the tax year:**

- Wage and Tax Statements, Federal Forms W-2;
- Certain Gambling Winnings, Federal Forms W-2G;
- Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., Federal Forms 1099-R; and
- Miscellaneous Income, Federal Forms 1099-MISC.

**An employer who is filing more than 50 Forms W-2, W-2G, 1099-R, and/or 1099-MISC with Nebraska income tax withholding amounts for 2012 must file the forms electronically.**

**FILING UPDATE.** The Department will send returns to each licensed employer. These returns can be used only by the employer whose name is printed on the form.

If you have not received a preidentified return for the reporting period, request a duplicate from the Department. Do not file returns which are photocopies, returns from another tax period, or returns which have not been preidentified. If the business name or location or mailing address is not correct, mark through the incorrect information. Plainly print the correct information. If you make payments by EFT, you will not be sent a preidentified Form 501N; however, you will continue to receive other preidentified forms.

**ELECTRONIC PAYMENTS.** The Department allows all types of income tax withholding payments to be made by electronic funds transfer (EFT). EFT options include: the Department's free e-pay program (ACH Debit); ACH Credit; and credit card payments. The [Debit](#) and [Credit User](#) Guides are available on the Department's website to explain these options.

**E-FILING.** The Department offers a free e-filing program to upload Nebraska copies of Forms W-2, W-2G, 1099-R, and 1099-MISC on its website. While all taxpayers are encouraged to e-file these forms, employers filing more than 50 Forms W-2, W-2G, 1099-R, and/or 1099-MISC for 2012 **must** e-file these forms.

The e-filed forms must meet the specifications in the information guides [Nebraska Computer Reporting Procedure 21CM](#) and [EFW-2](#). The Nebraska guidelines are used in combination with the federal guidelines in Publications 1220 and 42-007 for e-filing these forms.

**WHERE TO FILE.** All returns must be e-filed or sent to the Nebraska Department of Revenue, PO Box 98915, Lincoln, Nebraska 68509-8915. Payment of taxes withheld must also be mailed to the same address or be made electronically. See Electronic Payments above.

**Receiving forms.** Preidentified forms are mailed by the Department a short time before the forms are due. The preidentified form or a previously approved substitute must be used. Consult the Department's website for any changes to forms mailing schedules.

Federal forms can either be obtained from the IRS or from commercial distributors.

**TAXABLE WAGES.** Nebraska taxable wages are equal to federal taxable wages.

**DETERMINING WITHHOLDING.** There are several ways to determine income tax withholding. You can use the Nebraska percentage method or the Nebraska wage bracket method, regardless of the method used to determine federal withholding.

If you determine federal withholding using any of the following methods, the same method of determining withholding can be used for Nebraska. The methods that can be used are:

- Annualized wages;
- Average estimated wages;
- Cumulative wages; and
- Part-year employment.

**If you do not use one of these methods for federal withholding, either the percentage method or the wage bracket method must be used for Nebraska.**

The marital status and number of allowances must be the same for Nebraska as for federal. They must also be the same when the IRS requires the employer to set the status and allowances at a specific number, or when following the federal "Invalid W-4" procedures described in Federal Circular E.

**Percentage method.** If you do not want to use the wage bracket tables to determine income tax withholding, or if the amount of wages paid is more than the amounts included on the wage bracket tables, you can use the percentage method. To use the percentage method, start with the taxable wage amount for the payroll period. Subtract any withholding allowances using the table on [page 8](#). Deduct the result from the taxable wages before using the percentage method tables on pages [11](#) and [12](#).

If this calculation is less than 1.5% of the taxable wage amount, adjust the withholding to be at least 50% or more of the withholding for a single employee with one withholding allowance, or for a married employee with two allowances. **These amounts meet the minimum withholding requirement and may be used by the employer to determine an acceptable employee's state withholding amount.**

Find the amount to withhold in the following manner:

<b>INCOME TAX WITHHOLDING—PERCENTAGE METHOD</b> <b>Withholding Allowance Table</b> <b>Effective January 1, 2013</b>	
<b>Payroll Period</b>	<b>Value of One Withholding Allowance</b>
Weekly .....	\$ 36.54
Biweekly .....	73.08
Semimonthly .....	79.17
Monthly .....	158.33
Quarterly.....	475.00
Semiannually .....	950.00
Annually.....	1,900.00
Daily or Miscellaneous.....	7.31

1. Multiply one withholding allowance for the appropriate payroll period from the table above by the number of allowances claimed by the employee.
2. Subtract that amount from the employee's taxable wages **before** using the percentage method tables.
3. Determine the employee's withholding using the appropriate table on pages [11](#) or [12](#). Use the payroll period and the marital status of the employee.

**Wage bracket method.** When using the wage bracket method, use the proper table from pages [13](#) through [30](#), for the employee's marital status and your payroll period. Next, find the correct amount to withhold using the wage amount and the appropriate number of withholding allowances claimed. If the employee claims more than ten allowances, the amount of wages must be adjusted.

**Adjusting wage bracket withholding for more than ten withholding allowances.** The wage bracket tables include up to ten allowances. To adapt the table for more than ten allowances:

1. Multiply the number of withholding allowances claimed over ten by the withholding allowance value for the payroll period used in the withholding allowance table.
2. Subtract the result from the employee's wages.
3. For this amount, find and withhold the tax in the column for ten allowances.

This calculation will be used whenever the same method is used for the federal withholding.

**BONUSES, SUPPLEMENTAL WAGES, AND TAXABLE AWARDS.** Where supplemental wages (bonuses, commissions, overtime pay, severance pay associated with Nebraska employment, and sales awards) are paid at the same time as regular wages, the income tax deducted and withheld is determined as if the total of the supplemental and regular wages were a single wage payment for the regular payroll period. If supplemental wages are paid at a different time, the employer may determine the withholding by adding the supplemental wages either to the regular wages for the current payroll period, or to the regular wages for the last preceding payroll period within the same calendar year. The employer may also elect to withhold on the supplemental wages by using a flat 5% withholding rate.

**GAMBLING WINNINGS FROM NEBRASKA SOURCES.** There is a flat Nebraska withholding rate of **5%** of the winnings from Nebraska that are subject to federal withholding. The amount required to be withheld must be reported on Federal Form W-2G. Form W-2G is also used when withholding is not required, but income is being reported. The payor must furnish a Form W-2G if the recipient receives any Nebraska Lottery or other Nebraska gambling winnings subject to federal income tax withholding.

**PENSIONS AND ANNUITIES.** For periodic payments of employer-provided pensions and annuities, the withholding is determined in the same manner as withholding from wages. Payors must use the same number of allowances and the marital status as claimed by the payee on the Federal Form W-4P, Withholding Certificate for Pension or Annuity Payments, filed with the payor.

Use the appropriate payroll period in the **Nebraska Circular EN** to correspond with the type of periodic payment (monthly or quarterly), together with the applicable withholding allowances and marital status to compute the amount to withhold for state income tax purposes.

**Nonperiodic payments or eligible rollover distributions** subject to either the mandatory 10% or 20% federal withholding rate will be withheld at a rate of 5% of the distribution for state income tax purposes.

Payees choosing to **not** have federal income tax withheld are not required to have state income tax withheld. Alternatively, a taxpayer may also request to have **additional** state tax withheld. Payors should advise payees how to communicate such requests.

Premature distributions from an IRA are not subject to Nebraska income tax withholding.



## **WITHHOLDING FROM NONRESIDENTS ON PAYMENTS NOT SUBJECT TO FEDERAL INCOME TAX**

**WITHHOLDING.** A nonresident of Nebraska who performs personal services within Nebraska and who is not subject to federal withholding may still be subject to Nebraska income tax withholding.

Some persons performing personal services that require withholding include:

- Consultants;
- Corporate board directors;
- Entertainers;
- Individual athletes;
- Performers;
- Public speakers; or
- Those providing professional services.

Withholding is not required from payments to nonresident aliens providing personal services who are citizens of a country which has a tax treaty with the United States. The nonresident alien must provide the payor a statement regarding the tax exempt status of the income earned.

**Personal services exclude** services performed where capital furnished by the nonresident is a material income-producing factor. Capital is considered a material income-producing factor whenever the value of the use of capital, or the value of capital furnished, is in excess of 50% of the amount of payment. For additional information, see the [Income Tax Withholding for Nonresident Individuals Performing Personal Services In Nebraska](#) information guide.

**Construction contractors.** Contractors providing construction services in Nebraska must be registered on the [Nebraska Contractor Database](#). The database is maintained by the [Nebraska Department of Labor](#). A construction contractor not registered on the database is subject to 5% withholding on payments received from another contractor. **If a contractor is subject to the 5% withholding, it will not be subject to nonresident personal services withholding.**

**Who must withhold.** Any person paying a nonresident for services substantially performed in Nebraska may be required to withhold Nebraska income tax. A person must withhold if the payee is not an employee; the payment is not subject to federal income tax withholding; and the payor is either: (1) maintaining an office or transacting business within Nebraska and making a payment or payments of more than \$600; or (2) making payments in excess of \$5,000.

**Form W-4NA.** Cooperation between the payor and payee is necessary to complete the [Nebraska Withholding Certificate, Form W-4NA](#). Compute the amount to be withheld from payments using Form W-4NA. The withholding is reported to the person performing the personal services and the Department in the same manner as wages or other payments subject to withholding. Use Federal Form 1099-MISC and Forms [941N](#) and [W-3N](#).

**Determine the withholding amount.** If the amount of the payment less allowable expenses is less than \$28,000, the amount withheld will be 4% of the net payment. If the payment minus allowable expenses is \$28,000 or more, the amount withheld will be 6% of the total amount of the net payment.

Any nonresident performing personal services may provide the payor with a statement of expenses reasonably and directly related to the personal services performed in Nebraska. The expenses claimed may not exceed 50% of the payments. The total payment to the individual must be reduced by the allowable expenses before calculating the amount to withhold. Use Nebraska Withholding Certificate, Form W-4NA, to calculate the amount withheld.

If more than one payment is made for the same services, or for services that are a part of the same job or project, then all of the payments will be totaled to determine the applicable rate of withholding. If the sum of the payments minus expenses is \$28,000 or more, and some of the withholding was at the lower rate, the amount withheld from the later payments must be increased to make the total withholding equal to 6% of all the net payments.

**Payments to a corporation, partnership, or LLC for personal services.** Payments to a corporation are subject to withholding requirements if 80% or more of the voting stock of the corporation is held by the shareholders who are performing personal services. Payments to a partnership or LLC are subject to withholding requirements if 80% or more of the capital interest or profits interest of the partnership or LLC is held by the partners or members who are performing personal services. See line 11 instructions.

Every payor required to deduct and withhold from a payment to a corporation, partnership, or LLC is also required to furnish Federal Form 1099-MISC to each shareholder, partner, or member who performs services within this state. The total payment must be divided among the shareholders, partners, or members performing the service in Nebraska based on their percent of ownership in the entity. The amount withheld, which is computed on the total payments to the corporation, partnership, or LLC, is divided among the shareholders, partners, or members in the same manner. The share of withholding is allowed as a credit on the individual income tax returns of the shareholders, partners, or members.

If the partnership, corporation, or LLC fails to give the payor the information needed to prepare the Federal Form 1099-MISC for the shareholders, partners, or members, the payor must prepare the Federal Form 1099-MISC in the name of the corporation, partnership, or LLC. Send the copies normally given to the payee to the Nebraska Department of Revenue as if the forms were not deliverable.

Payors must issue Forms 1099-MISC to nonresidents providing personal services by February 15 following the close of the calendar year, or within 30 days after the service has been provided.